

Evicted Tenants (Ireland) Arbitration Bill.

ARRANGEMENT OF CLAUSES.

Clause.

1. Application by tenant to Arbitrators and procedure thereon, where landlord remains in occupation.
2. Requirement by landlord that tenant should purchase holding.
3. Application by tenant to Arbitrators, and procedure thereon where a new tenant is in occupation of the holding.
4. Provisions as to arrears of rent and costs and repair of house.
5. Provision of funds for Arbitrators.
6. Appointment, constitution, and payment of Arbitrators.
7. Definitions.
8. Commencement of Act and short title.

SCHEDULE.

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B I L L

[AS AMENDED IN COMMITTEE]

TO

Facilitate and make provision for the Restoration to their
Holdings in Ireland of certain former Tenants or
their Personal Representatives.

A.D. 1894.

BE it enacted by the Queen's most Excellent Majesty, by and
with the advice and consent of the Lords Spiritual and
Temporal, and Commons, in this present Parliament assembled,
and by the authority of the same, as follows :—

- 5 1.—(1.) Where the tenancy of a holding in Ireland has been
determined since the first day of May, one thousand eight hundred
and seventy-nine, the former tenant of such holding, or his personal
representative, not being an administrator who has obtained letters
of administration as a creditor, may within one year after the
10 commencement of this Act, petition the Arbitrators under this Act
to be reinstated as tenant of the holding.

*Application
by tenant to
Arbitrators
and pro-
cedure
thereon,
where land
lord remains
in occupa-
tion.*

- (2.) If in the opinion of the Arbitrators the petition shows that
the landlord is or was on the nineteenth day of April one thousand
eight hundred and ninety-four in occupation of the holding, and
15 that there is a *prima facie* case for reinstatement owing to the
circumstances of the district or the circumstances under which the
determination of the tenancy took place or some other cause
appearing to them sufficient, they may make a conditional order
for such reinstatement; and the order shall be served in the
20 prescribed manner on the landlord, and unless the landlord within
the prescribed time after the service shows cause against the order,
the Arbitrators may make the order absolute, subject or not to
conditions to be performed by the tenant.

*[See
54 & 55 Vict.
c. 48, s. 18.]*

- (3.) If the landlord so shows cause the Arbitrators shall hear the
25 parties, and after consideration of the question whether the conduct
of either landlord or tenant has been unreasonable, or whether

*[See
44 & 45 Vict.
c. 49, s. 2.]*

[Bill 346.]

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A.D. 1894. the one has unreasonably refused any proposal made by the other, and after consideration of all the circumstances of the case, may dismiss the petition or make the order absolute subject or not to conditions to be performed by the tenant, and generally may make such order in the matter as the Arbitrators may think most consistent with justice. 5

[See
21 & 22 Vict.
c. 72. s. 63.]

(4.) On an order being made absolute, the petitioner, subject to any conditions in the order, shall, as from the date of the order being made absolute, or any other date fixed by the Arbitrators, be restored to a tenancy in the holding of the same kind as before the determination of his tenancy, and the Arbitrators may order the sheriff to put the petitioner into possession of the holding and such order shall be executed by the sheriff in like manner as a writ for the delivery of possession. 10

44 & 45 Vict.
c. 49.

(5.) The rent of the holding shall be the former rent, until a new rent is fixed, and where the tenancy was determined before the passing of the Land Law (Ireland) Act, 1881, or before the determination thereof was a present tenancy, whether subject or not to a statutory term, the landlord or tenant may apply to the Land Commission to have a fair rent fixed, in pursuance of the Land Law (Ireland) Act, 1881, and the Acts incorporating or amending the same, in so far as the said Acts admit of a fair rent being fixed in respect of such a tenancy, and the holding shall, upon the fair rent being fixed, be subject to the provisions of the said Acts applicable to a present tenancy; provided that if the landlord and the petitioner consent, the Arbitrators may fix what is the fair rent of the holding, and the rent so fixed shall be the judicial rent of the holding, as if it had been fixed by the Irish Land Commission, and the order fixing the rent shall be communicated by the Arbitrators to the Irish Land Commission and seconded by them. 20 25 30

Require-
ment by
landlord
that tenant
should per-
chase hold-
ing.

2.—(1.) If the landlord, within the prescribed time, by written notice requires the petitioner to purchase the holding referred to in the petition, the Arbitrators, after due inquiry, may by a conditional order fix the amount of the purchase money; and unless within the prescribed time the petitioner refuses to purchase for that amount, the Arbitrators shall make the said order absolute. 35

(2.) If the petitioner so refuses to purchase he shall forfeit all claim to be reinstated, and his petition shall be dismissed.

(3.) Upon the order being made absolute, the Arbitrators shall take proceedings for vesting the holding in the petitioner charged with a purchase annuity, and for all matters necessary for carrying into effect the purchase, as if they were the Land Commis- 40

sion and the order was an agreement for a purchase, and upon the requisition of the Arbitrators a sum of guaranteed land stock equal in nominal amount to such purchase money shall be issued accordingly, and the Purchase of Land (Ireland) Act, 1891, and the Land Purchase Acts therein defined, shall apply as if they were herein re-enacted, and in terms made applicable to the Arbitrators, and to the purposes of this section, and the Treasury may make rules for defining the portions of the Acts so to apply, and the adaptations necessary for such application and for carrying this section into effect:

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Provided that—

(a) the Arbitrators if of opinion that the holding would be sufficient security for the advance but for its having become temporarily deteriorated in value, may make the advance, upon the purchaser providing such security as they may deem sufficient to meet any risk arising from such temporary deterioration;

See
54 & 55 Vict.
c. 48, s. 13(3).

(b) a guarantee deposit shall not be retained out of the guaranteed land stock issued for the advance of the purchase money; but the payment of all sums which otherwise would have been payable out of the guarantee deposit shall be guaranteed by the Irish Church Temporalities Fund, and shall be payable out of any surplus of that fund not heretofore appropriated, and be applied as if they were payments out of the guarantee deposit;

(c) the purchase annuity shall be payable to and be collected by the Land Commission in like manner as any other purchase annuity.

3. Where the holding referred to in a petition is, in the opinion of the Arbitrators, in the occupation not of the landlord but of a "new tenant," that is to say, of some other person under a tenancy bonâ fide created before the nineteenth day of April one thousand eight hundred and ninety-four, and subsequent to the determination of the former tenancy, all the foregoing provisions of this Act, shall apply subject as follows:—

Application
by tenant to
Arbitrators,
and procedure thereon
where a new
tenant is in
occupation of
the holding.

(a) the new tenant shall be served in the prescribed manner with the petition and with notice that he may, within the prescribed time, object to an order for reinstatement;

(b) if the new tenant objects to an order for reinstatement, the Arbitrators shall not make the order;

(c) if the new tenant does not object to an order, the Arbitrators, before making an order absolute, shall determine whether any and what sum is to be paid to the new tenant in con-

A.D. 1894.

sideration of the reinstatement of the petitioner, and shall be satisfied that that sum has been paid or duly secured to the new tenant in such manner as they direct, and if they think fit they may grant one half of such sum out of moneys at their disposal for the purposes of this Act.

Provisions
as to arrears
of rent and
costs or
repair of
house.

4.—(1.) The arbitrators when making absolute an order for the reinstatement of a petitioner in a holding, or fixing the price for the purchase of a holding, shall consider whether it is just that any sum should be paid to the landlord on account of arrears of rent or of costs in connexion with the holding, and may fix the sum to be so paid, not exceeding a sum equal to the amount of two years' former rent of the holding, and may direct how such sum is to be paid to the landlord; and, if they think fit, may grant one half of such sum out of the moneys at their disposal for the purposes of this Act, except as respects any sum so to be paid the landlord shall not, after an absolute order for a reinstatement is made, have any claim on account of arrears of rent or of costs in connexion with the holding.

(2.) If, owing to the destruction or dilapidation of the buildings on the holding, it seems expedient to the Arbitrators that a free grant should be made to assist the petitioner in rebuilding or repairing such buildings, they may grant to the petitioner for that purpose a sum not exceeding fifty pounds out of the moneys at their disposal for the purposes of this Act.

Provision of
funds for
Arbitrators.

5.—(1.) For the purposes of the preceding sections of this Act, the sum of two hundred and fifty thousand pounds shall be charged on the Irish Church Temporalities Fund, and placed at the disposal of the Arbitrators for the purposes of this Act.

44 & 45 Vict.
c. 71.

(2.) The Irish Land Commission shall when required by the Lord Lieutenant, pay out of the Irish Church Temporalities Fund sums not exceeding in the aggregate the sum above mentioned, and may with the consent of Treasury borrow the whole or any part of such sum on the security of the said fund.

32 & 33 Vict.
c. 42.

44 & 45 Vict.
c. 71.

(3.) Sections fifty-nine to sixty-four of the Irish Church Act, 1869, as amended by the Irish Church Act Amendment Act, 1881, shall apply in like manner as if the provisions of this Act were the provisions referred to in those sections; and the advances may be guaranteed by the Treasury, and the sums required to meet the guarantee shall be charged on the Consolidated Fund accordingly.

Appoint-
ment, con-
stitution, and

6.—(1.) The following persons, that is to say: Piers Francis White, one of Her Majesty's Counsel, Dublin; George Fottrell, solicitor, clerk of the Crown for the county and city of Dublin; and

Edward Greer, solicitor, legal Assistant Commissioner to the Irish Land Commission, shall be Arbitrators under this Act; they shall hold office for *two years* from the commencement of this Act, and if any vacancy occurs in the office of any Arbitrator by death, resignation, or incapacity, or otherwise, Her Majesty may by warrant under the Royal Sign Manual appoint some other fit person to fill the vacancy, who shall hold office only for the same period as the vacating Arbitrator would have held it.

A.D. 1894.

[vacancy of Arbitrators.]

[See 32 & 33 Vict. c. 42. s. 6; 48 & 49 Vict. c. 73. s. 17.]

(2.) The Arbitrators shall have a seal, and their acts shall be signified under that seal, authenticated by the signatures of the Arbitrators, or one of them, and judicial notice shall be taken in all courts of such seal, and any order or other instrument purporting to be sealed therewith shall be received as evidence without further proof.

(3.) There shall be paid as from the date of his appointment to any Arbitrator who is not a judge of the Supreme Court or otherwise receiving a higher salary out of the Consolidated Fund or moneys voted by Parliament, a salary not exceeding together with any salary so received by him two thousand pounds.

(4.) The Arbitrators may, with the consent of the Lord Lieutenant, appoint, employ, and remove such officers and persons as, with the consent of the Treasury, are considered necessary for the purposes of this Act:

Provided that, subject to the regulations of the Treasury, they shall employ the examiners and valuers of the Land Commission who shall perform the duties in accordance with the said regulations.

(5.) There shall be paid to the persons employed by the Arbitrators who are not in receipt of a salary from the Land Commission such remuneration as may be assigned by the Treasury.

(6.) The said salaries and remuneration, and all expenses incurred by the Arbitrators in carrying this Act into effect, not otherwise provided for as above mentioned, shall be paid out of moneys provided by Parliament.

(7.) The enactments mentioned in the schedule to this Act shall be incorporated with this Act and apply to the Arbitrators as if they were herein re-enacted, and in terms made applicable to those Arbitrators.

7.—(1.) Where it appears to the Arbitrators that the tenancy in a holding is held for the landlord, or that a person is in occupation of the holding as the nominee of the landlord, they shall deal with the tenancy, and this Act shall apply in like manner as if the tenancy had been determined and the holding were in the occupation of the landlord.

Application of Act.

A.D. 1894 (2) Where it appears to the Arbitrators that part of a holding is in the occupation of the landlord and part in the occupation of a new tenant, they shall deal with each part, and this Act shall apply in like manner as if each part were a separate holding, and the former rent of each part were such portion of the former rent of the whole holding as the Arbitrators fix.

Definitions. 8. In this Act, unless the context otherwise requires,—

The expression "landlord" means a landlord within the meaning of the Purchase of Land (Ireland) Act, 1891, and the Land Purchase Acts therein defined, and includes the successor in title of the person who was landlord at the determination of a tenancy.

44 & 45 Vict.
c. 49.

The expressions "holding," "present tenancy," and "fair rent" have the same meaning as in the Land Law (Ireland) Act, 1881.

The expression "prescribed" means prescribed by rules made by the Arbitrators, with the approval of the Privy Council, in pursuance of the enactments incorporated in this Act.

44 & 45 Vict.
c. 71.

The expression "Irish Church Temporalities Fund" means the fund under the control of the Land Commission by virtue of the Irish Church Act Amendment Act, 1881.

Commence-
ment of Act
and short
title.

9. This Act shall come into operation on the first day of November next after the passing thereof.

This Act may be cited as the Tenants (Arbitration) Ireland Act, 1894.

SCHEDULE.

A.D. 1894.

ACTS APPLIED.

Session and Chapter.	Short Title.	Sections applied.
5 42 & 43 Vict. c. 42. -	Irish Church Act, 1839 -	Section four, section seven, and section eight.
44 & 45 Vict. c. 49. -	Land Law (Ireland) Act, 1881.	Sections fifty-three to fifty-six.
10 49 & 50 Vict. c. 73. -	Purchase of Land (Ireland) Act, 1885.	The last sub-section of section seventeen, and section eighteen.

Excluded Tenants
(Ireland) Arbitration.

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B I L L

[AS AMENDED IN COMMITTEE]

To facilitate and make provision for
the Eviction of their Holdings in
Ireland of certain former Tenants or
their personal Representatives.

*(Prepared and brought in by
Mr. John Morley and Mr. Richard Cross)*

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